

By: Hughes

S.B. No. 1191

A BILL TO BE ENTITLED

AN ACT

relating to remedies in certain taxpayer suits against the state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 112.108, Tax Code, is amended to read as follows:

Sec. 112.108. ATTORNEY'S FEES AND OTHER COSTS [ACTIONS] PROHIBITED. Notwithstanding Section 37.009, Civil Practice and Remedies Code, or any other law, a court may not award attorney's fees or costs to the prevailing party when granting declaratory relief against the state, a state agency, or a state officer or employee in an action that relates ~~[Except for a restraining order or injunction issued as provided by this subchapter, a court may not issue a restraining order, injunction, declaratory judgment, writ of mandamus or prohibition, order requiring the payment of taxes or fees into the registry or custody of the court, or other similar legal or equitable relief against the state or a state agency relating]~~ to the applicability, assessment, collection, ~~[or]~~ constitutionality, or amount of a tax or fee imposed under this title or collected by the comptroller under any law, including a local tax collected by the comptroller ~~[covered by this subchapter or the amount of the tax or fee due, provided, however, that after filing an oath of inability to pay the tax, penalties, and interest due, a party may be excused from the requirement of prepayment of tax as a prerequisite to appeal if the court, after notice and~~

1 ~~hearing, finds that such prepayment would constitute an~~
2 ~~unreasonable restraint on the party's right of access to the~~
3 ~~courts. The court may grant such relief as may be reasonably~~
4 ~~required by the circumstances. A grant of declaratory relief~~
5 ~~against the state or a state agency shall not entitle the winning~~
6 ~~party to recover attorney fees].~~

7 SECTION 2. The changes in law made by this Act apply only to
8 an action that is commenced on or after the effective date of this
9 Act. An action commenced before the effective date of this Act is
10 governed by the law in effect on the date the action was commenced,
11 and the former law is continued in effect for that purpose.

12 SECTION 3. This Act takes effect September 1, 2017.